

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Statewide Marketing, Education and Outreach Program and Budget. (U39M).

Application 12-08-007
(Filed August 2, 2012)

And Related Matters.

Application 12-08-008
Application 12-08-009
Application 12-08-010

**DECISION GRANTING THE INTERVENOR COMPENSATION CLAIM OF THE
BLACK ECONOMIC COUNCIL, NATIONAL ASIAN AMERICAN COALITION,
AND LATINO BUSINESS CHAMBER OF GREATER LOS ANGELES
FOR CONTRIBUTION TO DECISION 13-12-038.**

Claimant: Black Economic Council (BEC), National Asian American Coalition (NAAC), and Latino Business Chamber of Greater Los Angeles (LBCGLA) (collectively Joint Parties or JP).	For contribution to: Decision (D.) 13-12-038
Claimed (\$): 42,431.80	Awarded (\$): 37,652.00 (11.265% reduction)
Assigned Commissioner: Michael R. Peevey	Assigned Administrative Law Judge (ALJ): Stephen C. Roscow

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	D. 13-12-038 adopts a statewide marketing, education and outreach plan for residential and small business customers for energy management and conservation. The California Center for Sustainable Energy (CCSE) is tasked with implementing the plan.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code Sections 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	November 26, 2012	Verified.
2. Other Specified Date for Notice of Intent (NOI):		
3. Date NOI Filed:	December 19, 2012	Verified.
4. Was the NOI timely filed?		Yes.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Application 10-12-005 A.10-12-006	See Comments in Part I.C.
6. Date of ALJ ruling:	November 14, 2011	See Comments in Part I.C.
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		See Comments in Part I.C.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.11-11-017	Verified.
10. Date of ALJ ruling:	March 9, 2012	Verified.
11. Based on another Commission determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-12-038	Verified.
14. Date of Issuance of Final Order or Decision:	December 27, 2013	Verified.
15. File date of compensation request:	February 21, 2014	Verified.
16. Was the request for compensation timely?		Yes.

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
5,6,8		X	<p><u>Showing of Customer or Customer-Related Status</u></p> <p>Joint Parties rely on the November 14, 2011 ruling in A. 10-12-005/006 to address their showing of customer or customer-related status (November 14 Ruling). The November 14 Ruling acknowledged the July 8, 2011 ruling in A. 10-11-015 directing Joint Parties to submit signed amended bylaws when the Joint Parties file a request for intervenor compensation. Based on the July 8, 2011 ruling and the amended NOI</p>

			<p>filed in A. 10-11-015, the November 14 Ruling determined that the Joint Parties demonstrated status as a “customer” for purposes of this proceeding. This preliminary determination of customer eligibility would be supported only when Joint Parties submitted signature pages reflecting the adoption of its amended bylaws.</p> <p>On May 12, 2014, the Latino Business Chamber of Greater L.A. (LBCGLA) submitted signed bylaws, meeting the requirements of § 1802(b)(1) for a finding of eligibility as a Category 3 customer. On May 16, 2014, the National Asian American Coalition (NAAC) submitted signed amendments to its bylaws, meeting the requirements of § 1802(b)(1) for a finding of eligibility as a Category 3 customer. The Black Economic Council (BEC) does not have signed bylaws on file with the Commission and as of the issuance date of this award decision, has not satisfied the requirements of Public Utilities Code § 1802(b)(1) for a finding of eligibility as Category 3 customers.</p>
16		X	<p><u>Timeliness of Filing</u></p> <p>When a compensation request is not filed in compliance with the statutory requirements and any applicable additional requirements, it is deemed incomplete.¹ The request is deemed complete on May 16, 2014, when the NAAC submitted eligibility documentation required by the July 8, 2011 ruling in A.10-11-015.</p>

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
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¹ The Commission, through decisions, has adopted and applies a policy of awarding interest from the 75th day after the date of the filing of a complete compensation request. If a compensation request is not filed in compliance with the statute and any applicable additional requirements, and an amendment is necessary to bring that request into compliance, then interest should accrue from the 75th day after the date the amendment to the request for compensation was filed. *See* D. 98-04-059 at 51.

<p>1. Metrics to Track Progress.</p> <p>The Joint Parties argued consistently for granular metrics by which the success of the Statewide Marketing, Education, and Outreach Plan. These recommendations focused in particular on assessing the level of penetration into diverse communities and methods to assess the effectiveness of communication.</p>	<ul style="list-style-type: none"> • D.13-12-038, at 64-65, 71, 88, 94-95. • JP Reply to Protests and Response, at 4-5. • JP Comments on Draft Outreach Plan; at 7-8. • JP Reply Comments on Draft Outreach Plan; at 2-3. 	Verified.
<p>2. Use of Outreach Methods Relevant to Communities of Color.</p> <p>The Joint Parties sought to ensure that the Statewide ME&O Plan used methods of communication and outreach that would maximize the participation of communities of color and low-income communities. These methods include use of ethnic media, outreach materials in multiple languages, and heavy use of community-based organizations for door-to-door outreach.</p>	<ul style="list-style-type: none"> • D.13-12-038, at 63, 68, 81, 95. • JP Response; at 2-3. • JP Reply to Protests and Response; at 5. • JP Comments on Draft Outreach Plan; at 2-4, 8. • JP Reply Comments on Draft Outreach Plan; at 4-7. • JP Comments on Proposed Decision; at 2-3. 	Verified.
<p>3. General Issues and Procedural Requirements</p> <p>This category includes procedural requirements, reviewing briefs of other parties or filings related to procedural issues. This category also includes time spent in engaging in coordination with other intervenors, which was particularly necessary in this proceeding.</p>	<p>See, e.g.:</p> <ul style="list-style-type: none"> • JP Motion Requesting Party Status. • JP Notice of Intent to Claim Compensation • Time billing (Attachment A) indicating collaboration and communication with CCSE 	Verified.

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?²	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: The Greenlining Institute		Additionally, California Center for Sustainable Energy (CCSE).
d. Intervenor's claim of non-duplication: Time was spent, as reflected in the billing records attached herein, to coordinate with many parties and ensure limited overlap, as well as coordination – especially with CCSE. Furthermore, ORA does not represent, except only generally, the same communities as the Joint Parties, and does not have the same grassroots involvement in those communities. Accordingly, ORA's positions are necessarily different, though many times complementary, to the positions of the Joint Parties. Finally, with regard to the Greenlining Institute, a well-respected and strong advocate for communities of color and low-income persons before this Commission, our positions aligned to ensure credible information was provided for the record. The Joint Parties, as previously mentioned, provide direct services to their constituencies in a way that Greenlining does not. Accordingly, though the positions might have been similar, they are informed in a unique way through the Joint Parties' experience.		Verified

² The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:</p> <p>The Joint Parties’ advocacy reflected in D.13-12-038 addressed policy matters and aspirational goals for energy conservation from the perspective of for low-income communities and communities of color. For the most part, the Joint Parties cannot easily identify precise monetary benefits to ratepayers from their work related to D.13-12-038, given the nature of the issues presented.</p> <p>Furthermore, the Joint Parties’ issues are not conducive to easy quantification of benefit. The benefits that accrue from customer outreach are not readily quantifiable, though the Joint Parties argued strongly for metrics that would allow quantification of benefit.</p>	<p style="text-align: center;">CPUC Discussion</p> <hr/> <p>Verified, <i>but see</i> “CPUC. Disallowances and Adjustments” in Part III.C.</p>								
<p>b. Reasonableness of Hours Claimed.</p> <p>This Request for Compensation includes approximately 117.9 total hours for the Joint Parties’ attorneys and staff. The Joint Parties submit that this is a reasonable amount of time, given the issues examined. These hours were devoted to substantive pleadings as well as to procedural matters.</p> <p>The Joint Parties’ request is also reasonable because they were as efficient as possible in staffing this proceeding Ms. Swaroop, and subsequently Mr. Lewis (as their hourly rates are much lower than Mr. Gnaizda’s) were utilized as much as possible.</p> <p>The Joint Parties’ request also includes 5.2 hours devoted to the preparation of this request for compensation. Mr. Lewis prepared this claim, avoiding the need for any of Mr. Gnaizda’s time, which is several times more costly.</p>	<p>Verified, <i>but see</i> “CPUC. Disallowances and Adjustments” in Part III.C.</p>								
<p>c. Allocation of Hours by Issue</p> <table border="1" data-bbox="191 1564 1089 1824"> <tr> <td>A. Metrics to Track Progress.</td><td>25.0%</td></tr> <tr> <td>B. Use of Outreach Channels Relevant to Communities of Color.</td><td>20.7%</td></tr> <tr> <td>C. General Issues and Procedural Requirements.</td><td>54.7%</td></tr> <tr> <td>Total</td><td>100%</td></tr> </table>	A. Metrics to Track Progress.	25.0%	B. Use of Outreach Channels Relevant to Communities of Color.	20.7%	C. General Issues and Procedural Requirements.	54.7%	Total	100%	<p>Verified.</p>
A. Metrics to Track Progress.	25.0%								
B. Use of Outreach Channels Relevant to Communities of Color.	20.7%								
C. General Issues and Procedural Requirements.	54.7%								
Total	100%								

B. Specific Claim:*

Claimed						CPUC Award		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Gnaizda	2012	9.3	\$545	Attachment B	\$5,068.5	9.3	\$545.00	5,068.50
Robert Gnaizda	2013	30.3	\$555	Attachment B	\$16,816.5	30.3	\$555.00	16,816.50
Robert Gnaizda	2014	6.7	\$555	Attachment B	\$3,718.5	6.7	\$555.00	3,718.50
Shalini Swaroop	2012	17	\$220	Attachment C	\$3,740	15.2 [3]	\$185.00	2,812.00
Shalini Swaroop	2013	18.4	\$231	Attachment C	\$4,250.4	17.3 [4]	\$190.00	3,287.00
Aaron Lewis	2013	7.7	\$195	Attachment F	\$1,501.5	7.3 [6]	\$180.00	1,314.00
Aaron Lewis	2014	0.3	\$215	Attachment F	\$64.5	0.3	\$180.00	54.00
Faith Bautista	2012	5.1	\$306	Attachment D	\$1,560.6	5.1	\$155.00	790.50
Faith Bautista	2013	14.6	\$312	Attachment D	\$4,555.2	14.6	\$155.00	2,263.00
Faith Bautista	2014	1.8	\$312	Attachment D	\$561.6	1.8	\$155.00	279.00
Michael Phillips	2013	1.5	\$391	Attachment E	\$586.5	1.5	\$395.00	592.50
	Subtotal:				\$42,432.8	Subtotal:		\$36,995.50
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Shalini Swaroop	2012					1.4	\$92.50	129.50
Shalini Swaroop	2013					.2	\$95.00	19.00

Aaron Lewis	2014	5.2	\$107.5	Attachment F	\$559	5.2	\$90.00	468.00
					Subtotal:	\$559	Subtotal:	\$616.50
COSTS								
#	Item	Detail			Amount	Amount		
1	Printing	Printing CPUC decisions, parties’ filings, etc.			\$40	\$40.00		
					Subtotal:	\$40	Subtotal:	\$40.00
					TOTAL REQUEST \$:	\$43,031.8	TOTAL AWARD \$:	\$37,652.00
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ³			Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation	
Robert Gnaizda		January 9, 1962			321480		No.	
Shalini Swaroop		June 11, 2010			2706090		No.	
Aaron Lewis		January 5, 2012			2855260		No.	

C. CPUC Disallowances and Adjustments:

#	Reason
1. Adoption of Robert Gnaizda's	The Commission adopted a 2010 and 2011 hourly rate for Gnaizda of \$535 in D.12-07-015. We apply the 2.2% Cost of Living Adjustment (COLA) adopted

3 This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

2012 hourly rate.	by the Commission in Resolution ALJ-281 to adopt an hourly rate of \$545 for Gnaizda's 2012 work in A.11-11-017.
2. Adoption of Robert Gnaizda's 2013 hourly rate.	We apply the 2.0% COLA adopted by the Commission in Resolution ALJ-287 to adopt an hourly rate of \$555.00 for Gnaizda's 2013 work in A.11-11-017.
3. Addition of Shalini Swaroop's 2012 hours.	<p>On September 17, 2012, Swaroop's time entry lists 0.4 hours for "filing and serving reply." The Commission does not compensate for the work of attorneys when such work is clerical, as the costs associated with these tasks are built into the established rates. <i>See</i> D.11-07-024.</p> <p>In addition, on December 19, 2012 Swaroop listed 1.4 hours regarding preparation of the NOI. Such time is compensable at ½ the approved rate and has been removed from the current heading and added to the intervenor compensation heading.</p>
4. Addition of Shalini Swaroop's 2013 hours.	<p>On January 21, 2013 Swaroop's time entry lists 0.5 hours for "writing Certificate of Service (COS), filing, and serving comments on flex alert." On March 15, 2013 the time entry similarly lists .4 hours for "COS, filing, and serving comments." The Commission does not compensate for the work of attorneys when such work is clerical, as the costs associated with these tasks are built into the established rates.</p> <p><i>See</i> D.11-07-024. This time is not compensable by the Commission.</p> <p>In addition, on January 16, 2013 Swaroop listed 0.2 hours for "re-filing the NOI." Such time is compensable at ½ the approved rate and has been removed from the current heading and added to the intervenor compensation heading.</p>
5. Adoption of Shalini Swaroop's hourly rate(s).	Joint Parties seek an hourly rate of \$220 for Swaroop's work performed in 2012 and \$231 for Swaroop's work performed in 2013. An hourly rate for Swaroop has not been requested from the Commission in the past. Swaroop became a licensed member of the California Bar in June of 2010. We base Swaroop's new rates on the 2012 and 2013 rates described in Resolution (Res.) ALJ-287 for attorney intervenors in Swaroop's experience range and also apply the COLA of both Res. ALJ- 281 and Res. ALJ-287. We adopt an hourly rate of an hourly rate of \$185 for Swaroop's 2012 work and an hourly rate of \$190 for Swaroop's 2013 work.
6. Disallowance for clerical tasks.	On April 5, 2013 Lewis' time entry lists 0.2 hours for "Filing and serving reply comments." Similarly, on November 25, 2013 the time entry lists .2 hours for "serve and file comments on PD." The Commission does not compensate for the work of attorneys when such work is clerical, as the costs associated with these tasks are built into the established rates. <i>See</i> D.11-07-024. This time is not compensable by the Commission.
7. Adoption of Aaron Lewis' hourly rate(s).	Joint Parties seek an hourly rate of \$195 for Aaron Lewis' work performed in 2013. Lewis became a licensed member of the California Bar in December of 2012. Prior to becoming a licensed attorney in December 2012, the Commission adopted a 2011 hourly rate for Lewis, a legal intern, of \$90 in

	D.12-07-015. For Lewis' 2013 work in A.12-08-007 with 0 years of experience as a licensed attorney we adopt an hourly rate of \$180 pursuant to Resolution ALJ-287's table of Hourly Intervenor Rate Ranges. As an attorney with two years, or less, experience in 2014, Lewis' 2014 rate is set at \$180.
8. Adoption of Faith Bautista's hourly rate(s).	Joint Parties seek an hourly rate of \$306 for Faith Bautista's work in 2012 and 2013. The Commission adopted a 2010 and 2011 hourly rate for Bautista of \$150 in D.12-07-015. The experience provided for Bautista in the current claim is substantially similar to that used to establish Bautista's rate in D.12-07-015, a decision where Bautista was found to be an advocate but not be an expert. We apply the 2010 and 2011 rate in this decision. We apply the 2.2% COLA adopted by the Commission in Resolution ALJ-281 to adopt an hourly rate of \$155 for Bautista's 2012 work. In addition, when we apply the 2.0% 2013 COLA adopted by the Commission in Resolution ALJ-287 to Bautista's rate, the rate remains unchanged once rounded to down to the nearest five-dollar increment. A 2014 COLA has not yet been adopted by the Commission.
9. Adoption of Michael Phillips' hourly rate(s).	Joint Parties seek an hourly rate of \$391 for Michael Phillips' work in 2013. The Commission adopted a 2010 hourly rate for Phillips of \$360 in D.12-04-044. We granted a requested 5% step increase for Phillips in 2011 to adopt an hourly rate of \$380. Applying the 2.2% COLA adopted by the Commission in Res. ALJ-281 produces an hourly rate of \$390 for Phillips' 2012. Pursuant to Res. ALJ-287, Phillips can receive a 2.0% COLA for 2013. We approve a rate of \$395 for Phillips' 2013 work.
10. Adoption of Aaron Lewis' hourly rate for Intervenor Compensation Claim preparation.	The Commission, above, approved a rate of \$180 for Lewis' 2014 work. One-half of that rate produces a rate of \$90 for 2014 intervenor compensation claim preparations.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	Yes.

FINDINGS OF FACT

1. BEC, NAAC, and LBCGLA rely on the November 14, 2011 ruling in A.10-12-005/006 to support their claim as eligible Category 3 customers in their NOI in A.12-08-007.
2. The November 14, 2011 ALJ ruling in A.10-12-005/006 relied on BEC, NAAC and LBCGLA's fulfillment of the requirements set by the July 8, 2011 ruling in A.10-11-015 requiring the parties to submit signed bylaws with their claim in A. 10-11-015 to uphold its preliminary finding of eligibility as Category 3 customers, defined by § 1802(b)(1).
3. BEC, NAAC, and LBCGLA did not file signed bylaws in A.10-11-015, thereby invalidating the July 8, 2011 ruling making the parties' preliminarily eligible as Category 3 customers.
4. On May 12, 2014, LBCGLA submitted signed bylaws completing the statutory requirements of § 1802(b)(1) and establishing eligibility as a Category 3 customer.
5. On May 16, 2014, NAAC submitted signed amendments bylaws completing the statutory requirements of § 1802(b)(1) and establishing eligibility as a Category 3 customer.
6. BEC does not have signed bylaws on file with the commission and has not satisfied the requirements Public Utilities Code Section 1802(b)(1) for a finding for eligibility as category 3 customers.
7. BEC, NAAC, and LBCGLA have made a substantial contribution to D.13-12-038, but only LBCGLA and NAAC are customers eligible for compensation, pursuant to § 1802(b)(1).
8. The hourly rates for the representatives of BEC, NAAC, and LBCGLA, as adjusted herein, are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services, and consistent with the past hourly rates awarded to BEC, NAAC, and LBCGLA representatives.
9. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
10. The total of reasonable compensation is \$37,652.00.

CONCLUSION OF LAW

1. BEC, NAAC, and LBCGLA's intervenor compensation claim, as adjusted herein, satisfies the requirements of Public Utilities Code Sections 1801-1812.

ORDER

1. National Asian American Coalition and Latino Business Chamber of Greater Los Angeles are awarded \$37,652.00.
2. Within 30 days of the effective date of this decision Pacific Gas and Electric Company shall pay National Asian American Coalition and Latino Business Chamber of Greater Los Angeles the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning July 30, 2014, the 75th day after the filing of Black Economic Council, NAAC, and LBCGLA request was completed, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1312038		
Proceeding(s):	A1208007, A1208008, A1208009, A1208010		
Author:	ALJ Roscow		
Payer(s):	Pacific Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Black Economic Council, National Asian American Coalition, and Latino Business Chamber of Greater Los Angeles	02/21/2014 Date of claim's completion is May 16, 2014.	\$42,431.80	\$37,652.00	No.	See Part III.C of this decision.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Gnaizda	Attorney	National Asian American Coalition	\$545.00	2012	\$545.00
Robert	Gnaizda	Attorney	National Asian American Coalition	\$555.00	2013	\$555.00
Robert	Gnaizda	Attorney	National Asian American Coalition	\$555.00	2014	\$555.00
Shalini	Swaroop	Attorney	National Asian American Coalition	\$220.00	2012	\$185.00
Shalini	Swaroop	Attorney	National Asian American Coalition	\$231.00	2013	\$190.00
Aaron	Lewis	Attorney	National Asian American Coalition	\$195.00	2013	\$180.00
Aaron	Lewis	Attorney	National Asian American Coalition	\$215.00	2014	\$180.00
Michael	Phillips	Expert	The Black Economic Council, National Asian American Coalition, and Latino Business Chamber of	\$391.00	2013	\$395.00

			Greater Los Angeles			
Faith	Bautista	Advocate	National Asian American Coalition	\$306.00	2012	\$155.00
Faith	Bautista	Advocate	National Asian American Coalition	\$312.00	2013	\$155.00
Faith	Bautista	Advocate	National Asian American Coalition	\$312.00	2014	\$155.00

(END OF APPENDIX)